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Attorneys for Defendant
James David Harwin

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiff,

vs.

JAMES DAVID HARWIN.,

Defendant.

CASE NO. 3:14-CR-0050-MMD-WGC

**AMENDED STIPULATION AND
ORDER TO CONTINUE PRETRIAL
MOTIONS AND TRIAL
(FIRST REQUEST)**

IT IS HEREBY STIPULATED AND AGREED by and through CRAIG S. DENNEY, counsel for JAMES DAVID HARWIN; DANIEL G. BOGDEN, United States Attorney, and MEGAN RACHOW, ESQ., Assistant United States Attorney, counsel for the UNITED STATES OF AMERICA; that the trial set for August 12, 2014 at 9:00 a.m., be continued to October 21, 2014 at 9:00 a.m. Calendar call currently scheduled for August 4, 2014 at 1:00 p.m. be continued to October 14, 2014 at 1:00 p.m. Pretrial Motions are continued to August 15, 2014. Responses are due on August 29, 2014, and Replies are due on September 5, 2014.

The continuance is necessary for the following reasons:

1. Counsel for the defendant requires additional time to investigate all aspects of the case, and to be fully prepared for trial, taking into account the exercise of due diligence, in the event a plea agreement is unable to be reached prior to trial. Further, counsel requires additional time to analyze copious discovery and discuss it with his client.

2. Counsel for the parties seek additional time to reach a settlement of this case prior to trial.

3. The defendant is in custody and does not oppose the delay so his counsel will have sufficient time to review discovery and prepare his defense for this case.

4. The defendant has consulted with his counsel and agrees to a continuance in this case.

5. Failure to grant this continuance would deny counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

6. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence under the provisions of the Speedy Trial Act pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and (B)(i)(iv), in that failure to grant this continuance would result in a miscarriage of justice by denying counsel for the defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

DATED this 29th day of July, 2014

/s/ Megan Rachow
MEGAN RACHOW
Assistant United States Attorney

/s/ Craig Denney
CRAIG S. DENNEY
CARRIE L. PARKER
Counsel for JAMES DAVID HARWIN

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA

Plaintiff,

vs.

JAMES DAVID HARWIN.,

Defendant.

CASE NO. 3:14-CR-0050-MMD-WGC

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW AND
ORDER**

FINDINGS OF FACT

Based on the pending Stipulation of Counsel, and good cause appearing, the Court finds:

1. Counsel for the defendant requires additional time to investigate all aspects of the case, and to be fully prepared for trial, taking into account the exercise of due diligence, in the event a plea agreement is unable to be reached prior to trial. Further, counsel requires additional time to analyze copious discovery and discuss it with his client.

2. Counsel for the parties seek additional time to reach a settlement of this case prior to trial.

3. The defendant is in custody and does not oppose the delay so his counsel will have sufficient time to review discovery and prepare his defense for this case.

4. The defendant has consulted with his counsel and agrees to a continuance in this case.

5. Failure to grant this continuance would deny counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv).

6. The additional time requested by this Stipulation is excludable in computing the time within which the trial herein must commence under the provisions of the Speedy Trial Act pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and (B)(i)(iv), in that failure to grant this continuance would result in a miscarriage of justice by denying counsel for the defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

CONCLUSIONS OF LAW

The ends of justice served by granting a continuance in this case outweigh the best interest of the public and the defendant in a speedy trial, since the failure to grant a continuance would likely result in a miscarriage of justice, would deny the parties sufficient time and opportunity to effectively and thoroughly prepare for trial, taking into account the exercise of due diligence.

The continuance sought herein is excludable in computing the time within which the trial herein must commence under the provisions of the Speedy Trial Act pursuant to Title 18, United States Code, Sections 3161(h)(7)(A) and (B)(i)(iv).

ORDER

IT IS HEREBY ORDERED that time from August 12, 2014 to October 21, 2014, the new trial date, is excluded in computing the time within which the trial in the above-captioned case must commence pursuant to the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i) and (iv) for the above-stated reasons, including without limitation that the ends of justice would best be served by this continuance of the trial date. The additional time is also excludable under Title 18, United States Code, Sections 3161(h)(1)(D) upon the filing of a motion.

IT IS FURTHER ORDERED that the trial currently scheduled for August 12, 2014, at the hour of 9:00 a.m., be vacated and continued to October 21, 2014 at the hour of 9:00 a.m. with calendar call currently scheduled for August 4, 2014 to be continued until October 14, 2014 at 1:00 p.m.

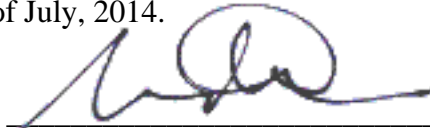
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1 The Court finds the need for this continuance outweighs the defendant's and public's right
2 to a speedy trial.

3 **IT IS SO ORDERED** this 29th day of July, 2014.

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5 UNITED STATES DISTRICT JUDGE
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